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FISCAL IMPACT STATEMENT

LS 6631

BILL NUMBER: SB 200

NOTE PREPARED: Feb 28, 2008

BILL AMENDED: Feb 26, 2008

SUBJECT: Department of Environmental Management (IDEM) Matters.

FIRST AUTHOR: Sen. Gard

BILL STATUS: As Passed House

FIRST SPONSOR: Rep. Dvorak

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill does the following.

Qualifications of Mediators. This bill provides that a person must be qualified as a mediator under Indiana Supreme Court Rules to serve as a mediator in an administrative proceeding unless the parties and the administrative law judge agree to a mediator who is not qualified as such.

Laboratory Division. This bill eliminates the requirement for IDEM to include a laboratory division.

Wastewater Operator Certificate. This bill eliminates the requirement for certain water and wastewater operators to display certificates.

Wastewater Management Vehicle. This bill provides that a wastewater management vehicle must have an identification number issued by IDEM instead of a license. It provides that IDEM may issue a wastewater management permit that incorporates issuance of a wastewater management vehicle identification number and approval of a land application site.

Waste Permits. This bill eliminates the requirement for an applicant for certain waste permits to include the applicant's Social Security number in the application disclosure statement. It allows IDEM to require additional information in the application.

Mercury Switch Removal Program. The bill states the purposes of the program; requires IDEM to pay recyclers for removed anti-lock braking system G-force sensors and other components containing more than

10 milligrams of mercury; and provides that the mercury switch removal requirement does not apply if the removal would require dismantling of the vehicle.

Lead-based Paint Activities. The bill transfers administration of the lead-based paint activities program from IDEM to the State Department of Health and amends the definition of elevated blood lead level for purposes of the program. It deletes the deadline of January 1, 2009, for adoption of lead-based paint activities rules by the State Department of Health (ISDH). Lead-based paint activities rules adopted before January 1, 2009, by the Air Pollution Control Board are considered rules of the ISDH, and the bill requires the ISDH to adopt rules to replace the rules of the Board.

Underground Storage Tanks. It allows IDEM to use money in the Underground Petroleum Storage Tank Excess Liability Trust Fund for the inspection of underground storage tanks and limits the combined amount of payments from the fund in a year for tank inspection and administration of claims against the fund to 10% of the fund income in the immediately preceding year.

Electronic Submission of Information. The bill establishes standards for electronic submission of information to IDEM.

Confined Feeding Operations. This bill establishes good character disclosure requirements for confined feeding operations (CFOs) and CAFOs. It allows IDEM to review and act on disclosed good character information. It prohibits a person from starting construction of a CFO or CAFO without obtaining both (1) the prior approval of IDEM; and (2) any approval required by a county, city, or town in which the CFO or CAFO is or would be constructed.

Landfills. The bill provides that before an original permit for the construction or operation of a landfill that is or may be located in a county that does not zone under the laws concerning local planning and zoning may be granted, the applicant must submit a bond (1) to IDEM; and (2) in an amount that is equal to the projected annual gross income of the landfill. The bill requires IDEM to hold the bond for three years after the date the landfill is closed.

Effective Date: (Amended) Upon passage; July 1, 2008; January 1, 2009.

Explanation of State Expenditures: *Qualifications of Mediators.* This bill specifies qualifications for mediators unless the parties and the administrative law judge agree to a mediator who is not qualified as such. This provision could expand the pool of potential mediators. The proposal is not expected to have a significant impact on expenditures of the Office of Environmental Adjudication (OEA). OEA considers about 250 cases on average each year; 150 are adjudicatory. Approximately 40 cases require a hearing.

Laboratory Division. This bill eliminates the requirement for IDEM to include a laboratory division. This provision should have no impact because IDEM does not have a laboratory division. IDEM requires laboratory analysis of soil, drinking water, stream water, monitoring wells, and some air monitoring samples. IDEM contracts with the State Department of Health (ISDH) for some testing. The agency contracts with private labs for specialized sampling that the state does not have equipment to provide. IDEM spends \$1.5 - \$2 M per year for water and land testing. The Laboratory Division was required by statute in 1986, and it developed into an office within the agency. It was disassembled in the late 1980s or early 1990s. Testing has been handled by contracts for most of the time since then. Elimination of the statutory requirement for the division will make statute reflect current agency structure.

Wastewater Management Vehicle. This bill provides that a wastewater management vehicle must have an identification number issued by IDEM instead of a license. IDEM may issue a wastewater management permit that incorporates issuance of a wastewater management vehicle identification number and approval of a land application site. The provision could reduce administrative expenditures for IDEM to the extent that this provision will eliminate duplication of paperwork and simplify permitting for wastewater haulers. Rather than issuing a separate permit, license, and approval, an identification number combines all under one function, reducing paperwork. The overall saving is not expected to be significant although efficiency should be improved. Moving to one identification number will reduce multiple steps for agency staff and the permitted entity.

Waste Permits. This bill eliminates the requirement for an applicant for certain waste permits to include the applicant's Social Security number in the application disclosure statement. It allows IDEM to require additional information in the application. This provision will have no significant fiscal impact. The elimination of the Social Security number is a security precaution.

Mercury Switch Removal Program. The bill states the purposes of the program; requires IDEM to pay recyclers for removed anti-lock braking system G-force sensors and other components containing more than 10 milligrams of mercury; and provides that the mercury switch removal requirement does not apply if the removal would require dismantling of the vehicle. Since February 2007, Indiana has collected 5,527 switches equating to 12.16 pounds of mercury. According to the End of Life Vehicle Solutions organization, 399 of Indiana's 788 potential vehicle recyclers have participated in the program. End of Life Vehicle Solutions (ELVS), an organization formed by auto manufacturers who used mercury switches, provided the plan for mercury recovery in Indiana. ELVS contracts with a mercury retorter to properly handle the collected switches. The number of ABS sensors and other components that will be recycled is unknown. IDEM anticipates paying \$3 per switch and \$5 per ABS assemblies, which contain multiple mercury pellets. Other components have been added in anticipation of future activities. Payments for switches are paid from the Solid Waste Management Fund. The statute leaves the funding levels to the discretion of the Commissioner to protect fund solvency. The proposal does not change the Commissioner's discretion for payment amounts.

Lead-based Paint Activities. The bill transfers administration of the lead-based paint activities program from IDEM to the ISDH. IDEM transferred this program to ISDH through a memorandum of understanding in October 2007. The federal funds that provided for staffing and program needs were transferred to ISDH along with two staffing positions. State funding of the program should not change. The transfer was designed to improve communication between state and local agencies.

Since the inception of the program, 12 contractors have been licensed. Individual licenses include 217 Risk Assessors, 146 Inspectors, 36 Workers, 67 Supervisors, 2 Project Designers, and 16 Lead Clearance Examiners. There is a three-part exam required for individual licenses, and there are 'approved' lead exam providers.

Underground Storage Tanks (USTs). It allows IDEM to use money in the Underground Petroleum Storage Tank Excess Liability Trust Fund (ELTF) for the inspection of USTs and limits the combined amount of payments from the fund in a year for tank inspection and administration of claims against the fund to 10% of the fund income in the immediately preceding year. Currently, IDEM inspects approximately 900 USTs per year with 5 inspectors. There are a total of 4,200 USTs registered in Indiana. The current program uses \$600,000 annually from the Petroleum Trust Fund and an additional \$400,000 from federal funds (EPA) to conduct the inspections. For FY 2006 and FY 2007, the fund generated around \$50 M from annual registration fees paid by owners of USTs. Given this figure, limiting inspection and administration payments

to 10% of the income would limit expenditures to \$5 M.

The Federal Energy Policy Act of 2005 requires that USTs be inspected at least once every three years and adds other environmental inspection requirements to the inspection process. IDEM will be required to inspect 1,400 USTs per year in order to keep the current federal funding. The additional inspections are expected to cost about \$600,000 per year in Indiana funds. By using the ELTF for the additional inspection expenses, IDEM could hire three additional inspectors to meet the inspection requirements.

Increasing inspection levels and meeting federal program inspection standards will insure that Indiana will keep the federal match for the entire UST (\$400,000) and also for the Leaking UST program (\$1.5 M), totaling \$1.9 M. Improving the compliance program through inspections could also reduce the claims on ELTF through earlier detection of leaks.

As of December 31, 2007, ELTF had a balance of \$1.4 M. The Petroleum Trust Fund had a balance of about \$16,000.

Electronic Submission of Information. The bill establishes standards for electronic submission of information to IDEM. Electronic submission is a voluntary option. Consequently, how many regulated entities will take advantage of electronic applications and report submissions is indeterminable.

IDEM receives about 57,275 reports and applications a year. Some reports consist of 200 pages each, making the total paper processed by IDEM much higher. The bill aligns IDEM's electronic reporting requirements with EPA requirements. No reduction in expenditures will be realized until EPA approves the state's electronic signature protocol. Once approved, IDEM may implement the necessary technology, and businesses may begin using electronic submissions.

System upgrades will be required to receive electronic submissions. IDEM is in the first year of a four-year system upgrade that will allow for improved efficiency and eventually cost reductions in data input expenses by accepting electronic reports. Some manual data entry will be eliminated. The cost of the upgrade is \$5 M; however, this figure includes technology purchases needed beyond the electronic reporting improvements. IDEM's technology upgrade expenses are being covered through appropriations enacted in the 2007 budget bill.

(Revised) *Confined Feeding Operations.* This bill establishes good character disclosure requirements for CFOs and CAFOs. It allows IDEM to review and act on disclosed good character information. The fiscal impact of this provision is not expected to be significant.

(Revised) *Landfills.* The bill provides that before an original permit for the construction or operation of a landfill that is or may be located in a county that does not zone under the laws concerning local planning and zoning may be granted, the applicant must submit a bond (1) to IDEM; and (2) in an amount that is equal to the projected annual gross income of the landfill. The bill requires IDEM to hold the bond for three years after the date the landfill is closed. This provision will not result in a significant impact on IDEM.

Repealed Provisions. Repealed provisions will have no fiscal impact.

Explanation of State Revenues: (Revised) *Confined Feeding Operations.* This bill prohibits a person from starting construction of a confined feeding operation or CAFO without obtaining both (1) the prior approval of IDEM; and (2) any approval required by a county, city, or town in which the CFO or CAFO is or would

be constructed. The bill could result in a reduction in revenue generated by fees assessed CAFOs and CFOs if specifying that both state and local approval is needed results in fewer CAFOs or CFOs. However, the impact is not expected to be significant.

Explanation of Local Expenditures: *Wastewater Operator Certificate*. This bill eliminates the requirement for certain water and wastewater operators to display certificates. This provision will have no impact. Wastewater operators often manage multiple facilities.

Explanation of Local Revenues:

State Agencies Affected: IDEM.

Local Agencies Affected: Counties and local units with wastewater operators.

Information Sources: Sandra A. Flum, Director, Community Relations, Office of External Affairs, IDEM, 317-233-9479; Stephen Lucas, Division of Hearings, 317-233-3322; <http://www.eqonline.com/services/ELVS-Mercury-Switch-Recovery-Program/state-report-all.asp?go=go&state=IN&name=numbers>)

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